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Proposals for the gradual  
creation of a...

London

1868

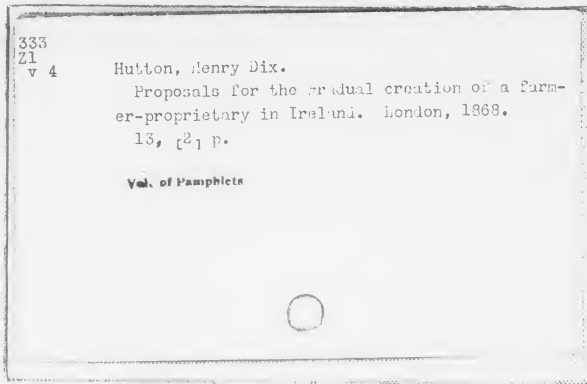
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# Proposals

FOR THE

GRADUAL CREATION

OF A

FARMER-PROPRIETARY

IN

IRELAND.

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LONDON: W. RIDGWAY, PICCADILLY.  
DUBLIN: W. B. KELLY, 8, GRAFTON-STREET,  
AND SOLD BY ALL BOOKSELLERS.

1868.

Price, Sixpence; by Post, Sevenpence.

THE following Proposals, having been maturely and repeatedly considered by a number of Irish gentlemen, representing different forms of religious and political opinion, are now submitted to the judgment of the public.

The undersigned has been requested by his coadjutors to give his name, which he does, not as claiming exclusive authorship, but as a guarantee of good faith.

HENRY DIX HUTTON.

10, Lower Mountjoy-street, Dublin.  
14th February, 1868.

R. D. Webb and Son, Printers, 177, Great Brunswick-street, Dublin.

13 March 1919 Mr Hutton  
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v. 4  
INTRODUCTORY REMARKS.

THE following proposals are suggested by the gravest considerations, political and economic, arising out of the history and condition of Ireland. The end sought is the gradual creation of a Farmer-Proprietary; that is, of a body of men encouraged by security of tenure to improve their holdings, and thus identified with the interests of settled government and rational progress. The means proposed are to combine acknowledged principles and established institutions, with powers and inducements calculated to secure the co-operation of land-owners and land-occupiers.

Measures of confiscation or compulsion are emphatically disclaimed. The recognition of "religious equality," now imminent, will, it is assumed, lead to the disendowment of the Established Church of Ireland. Now there is a broad distinction between PUBLIC PROPERTY held in trust for, and virtually owned by, the State—property applicable therefore to the general advantage—and PRIVATE PROPERTY, which is governed by very different principles. Under the former head fall Tithes, Church Lands, in fact all property set apart by the State for the performance of public trusts; under the latter, all other property, including vested life interests in Church revenues, lay tithes, and private rights

in Church-lands. All the former class of property is subject to be disposed of for public objects, as dictated by the actual wants of society, and liable to vary with the necessary changes in the policy of the State. The object here proposed as the fittest and best for Ireland is to further the solution, by peaceful means, of her Land-difficulty.

Accordingly, it is suggested that the Board of Works and Valuation Commission be conjointly appointed TITHE AND LAND COMMISSIONERS, for gradually converting into a capital fund the tithes and other property now devoted to support the Church Establishment of Ireland, as the life interests of the clergy fall in; to be employed by them in assisting the formation of a FARMER-PROPRIETARY in IRELAND by the methods hereafter suggested.

The following estimate, taken from the most recent official returns, represents approximately, but, it is believed, with sufficient accuracy, the income and capitalized value—immediate and prospective—of the public property hitherto applied to the use of the Established Church in Ireland. The estimate here submitted is probably under, and even considerably under, the actual value.

The public Church property in Ireland falls under two heads, according as it is now applied either for the support of incumbents enjoying life interests, or to other purposes connected with the Established Church. The former kind, if capitalized, might be fairly estimated to yield, in each year, during a period of thirty years, two-thirds of the present income so applied; assuming that the interests of existing incumbents will have expired in thirty years, and, taking the value of tithes and glebe lands as being together worth twenty years' purchase. The Church property which is free from life interests may be regarded as capable of immediate capitalization at a rate of twenty years' purchase, which, so far as concerns the interest in Church lands vested in the Ecclesiastical Commissioners, is probably a good deal less than what it would bring, especially if sold to the lessees of Church lands themselves. An examination of

the most recent public returns\* justifies the conclusion that the Tithe and Land Commissioners could immediately dispose of funds equivalent to a capital of about £3,000,000, with a yearly sum of not less than £340,000 during thirty years. The total ultimate value of Church property may be computed as being on the lowest estimate Thirteen Millions sterling. In case it were impossible or inexpedient to realize the funds at once, the State might safely make the necessary advances. The application it is here proposed to make of these funds will not dissipate them; on the contrary, the greater part, if not the whole, would ultimately be disposable for other public objects in Ireland.

\* From *Parl. Paper, House of Commons, 1864, No. 267*, it appears that the gross revenue derived from Tithes and Glebe lands, received or occupied by bishops and incumbents of the Established Church in Ireland, is £586,428 8s. 1d.; the net revenue, £448,943 15s. 10d. To this net revenue must be added the sum of £15,760 4s. 4d. being the amount of the tax on bishoprics and benefices paid by bishops and incumbents to the Ecclesiastical Commissioners; as must also be added the deductions for visitation fees, salaries of assistant curates, and other charges for the support of the Established Church, by which the above gross revenue is reduced in the net return.

*Parl. Paper, House of Commons, 1867, No. 371*, gives the income of the Ecclesiastical Commissioners, derived from see estates, suspended benefices, disappropriated tithes, and other public property, for the year ending 1st August, 1866, at, in round numbers, £125,000. Of this income £15,760 4s. 4d. is the ecclesiastical tax above referred to; and an annual sum of about £24,000 is affected by life interests of incumbents. As regards the Church lands, their capitalized value must be obtained by adding to the market price of the income derived therefrom by the Ecclesiastical Commissioners, the value of the unsold Perpetuities; estimated at £1,125,000. It is well known that the church lands were let on leases for twenty-one years, renewable by custom every year on payment of fines; and that the head lessees, and such of their tenants as held by similar leases with covenants for renewal *toties quoties*, acquired under the Act of 1834 (3 & 4 Wm. IV. c. 37, the Ecclesiastical Temporalities Act), the right to convert these renewable leases into fee-farm grants, subject to a perpetual rent (compounded of the actual rent and fines), paying also a sum as compensation for the reversionary rights of the Commissioners under the Act. The obstacles which chief, and other perpetual, rents oppose to dealings with land render their extinction a matter of public policy; and, with this view, the Act of 27 & 28 Vict. c. 38, was passed, for encouraging voluntary arrangements of that sort. In respect of Church lands, this object might be facilitated by the Tithe and Land Commissioners dealing, as far as possible, with the head lessees or occupiers who may hold under *toties quoties* leases.

## PROPOSALS.

## FUNCTIONS OF THE TITHE AND LAND COMMISSIONERS.

I.—To assist or enable occupying tenants of agricultural land either to purchase their holdings; or to acquire the ownership subject to a fee-farm rent, with a right of redemption on stipulated terms.

II.—To purchase eligible estates, or portions of such, in order to convert the occupiers into owners; either at once, or at the expiration of a terminable rent-annuity, or by giving a fee-farm grant subject to a redeemable rent.

## I.

## OCCUPIERS PURCHASING OR TAKING IN FEE-FARM.

**(A)** *Under ordinary Sales in the Landed Estates' Court.*

The agricultural property sold in the Landed Estates' Court, and which could be bought by occupiers, may be valued at from £300,000 to £400,000 each year. The Court not merely carries out previous contracts for sale, but on ordinary petitions not unfrequently sanctions private sales for the benefit of the estate. Occupying tenants have occasionally bought their holdings under such contracts, or by public biddings. There is every reason for believing that the comparative infrequency of such purchases may be attributed partly to the difficulty tenants experience of procuring capital beyond what is absolutely requisite for farming; partly to the want of a suitable machinery for facilitating such dealings with the tenants. The Court should therefore be authorized to make arrangements, (a) for facilitating purchases by occupiers of estates brought into the Court for sale; (b) for sanctioning fee-farm grants to occupying tenants, to be made before sale, with or without fines, but empowering the grantees to redeem the reserved rents at a specified rate of purchase. The Court would of course sanction only such dealings

with occupiers as were beneficial to all parties, and ratified by the persons substantially interested.

In the case of tenants purchasing, the Commissioners would contribute part of the price, not exceeding a prudent advance. This should be adequately secured by a recorded charge repayable by instalments, or a recorded rent-annuity calculated to repay principal with moderate interest in a specified period, or sooner if the tenant were able.

In the case of tenants who could not purchase without sacrificing their agricultural capital, the Court should be empowered to sanction arrangements for granting them their holdings in fee-farm; either at an advanced rent, or at the present rent, but paying a fine, with a right of redemption on specified terms. The increase of rent, or the fine, ought to be so regulated as to prevent any loss to the estate. The Commissioners might make advances in aid of the fines, and afterwards of the redemption money, in like manner as for purchase money.

In any of the above modes of dealing, the tenant applying his own savings and assisted by the Commissioners to purchase, pay a fine, or subsequently to redeem, would thus eventually become an unincumbered proprietor—being subjected in the mean while to an annual sum, very little, and in some cases not at all greater, than the rent theretofore paid to his landlord. The possibility, however, of effecting the operation with ease and advantage to both tenants and owners, must depend on the advances being made at a low rate of interest. This is demonstrated by the large and long continued experience of Prussia and the other leading states of Germany, where the Governments used their financial credit to facilitate the conversion of occupiers into owners. On a like principle, the Public Drainage loans in Ireland are repaid in 35 years, the borrowers paying a terminable annuity at the rate of £5 per cent., of which  $3\frac{1}{2}$  per cent. are applied to pay interests and expenses, while the residue,  $1\frac{1}{2}$  per cent., remains for redemption of the principal at compound interest during the period mentioned.

(B) *By Agreement between Owner and Occupier.*

The principles embodied in the "Leases and Sales of Settled Estates Acts," and the "Landed Property Ireland Improvement Act, 1860," Part 2, should be extended, by authorizing incumbered and limited owners to contract with agricultural occupiers for the sale of their holdings; or grants in perpetuity subject to a fee-farm rent, with or without fine, but made redeemable on specified terms. The sanction of the Landed Estates' Court should, however, be necessary to make such contracts binding on all parties. The purchase money and fines should also be made payable by the tenant to the Court, who would apply it to discharge incumbrances, or in other ways beneficial to the parties interested. The Commissioners might make advances to the tenants for purchase money, fines, or redemption, respectively, as above indicated.

## II.

### PURCHASES BY THE TITHE AND LAND COMMISSIONERS.

The Commissioners should be empowered to buy as ordinary purchasers in the open market, either on sales in the Court, or by private contract to be carried out by the Court; such properties to be resold, or granted in fee-farm by them to the occupiers on the principles above suggested. The redeemable fee-farm rents would be resold; their amount, or the fines taken, being calculated so as to prevent loss to the public funds so far as possible. Limited and incumbered owners should be empowered to deal with the Commissioners for the sale of the fee-simple, under the sanction and with the aid of the Landed Estates' Court.

The proposed function of purchasing estates is one which would, doubtless, require the exercise of great care and a wise discretion on the part of the Commissioners. Cases might occur where a purchase, though on the whole advisable, would present the disadvantage of a numerous class of

tenants whose holdings were too small for comfortable subsistence or profitable farming. The best mode of meeting these difficulties would probably be to authorize the Commissioners to buy up such interests on terms just and even favourable to the existing tenants.

Where the owner was neither incumbered nor limited, the powers suggested would not be needed. In such and every case, however, public policy, and the complete security of the advances made out of public funds, would render it advisable that all dealings with or through the Commissioners should be carried out by the Landed Estates' Court, and the land so purchased or acquired in fee-farm, placed upon the Record of Title.

### REMARKS ON FOREGOING PROPOSALS.

Under judicious management the proposed measure could, it is believed, be carried out with the Church funds, and their ultimate repayment rendered a certainty. That measure ought not indeed to dispense with other remedial legislation, as between landlord and tenant, or a limited owner and his successors; such as compensation for improvements, inducements to grant leases, and enlarged powers of leasing and charging the inheritance with the amount of beneficial outlay. Nevertheless, it may reasonably be expected that the operation of the plan above suggested would be extensive, sufficiently rapid, and beneficial to all parties interested in land. On the one hand, large proprietors selling considerable portions to occupiers at good prices might thereby relieve themselves of onerous burdens, and realize capital for improvements. On the other hand, the indiscriminate or ill-considered conversion of small holdings into fee-farm would be guarded against, by giving, as above suggested, large discretionary powers to the Landed Estates' Court and the Commissioners.

The last twenty years have witnessed two revolutions in Ireland, one legal, the other agricultural, which deserve a special mention.

The Incumbered and Landed Estates Courts have wrought changes great, and in the main beneficial. But one serious defect existed from their foundation, and still operates—the absence of power to secure to tenants the value or enjoyment of retrospective improvements, made or purchased by them, even where made under local customs, unrecognized indeed by the law, but generally respected by the old landowners. Thus, the Court in selling land was obliged, to use the language of a late eminent Judge, to “administer injustice;” placing the tenants at the mercy of strangers ignorant or regardless of their equitable claims. The measure now submitted would check this evil, by encouraging dealings between the owners and occupiers. Moreover, the occupier who now pays a large sum for a precarious “goodwill” might acquire the fee simple; and being thus secured in respect to past and future outlay, he could well afford to give a price exceeding the ordinary selling rate in the open market.

The agricultural revolution in Ireland has been no less remarkable. The repeal of the corn-laws and enormous emigration have largely promoted the consolidation of farms. The larger class of farmers, with holdings of 30 acres and upwards, has thus been greatly augmented.\* Constituting, as these now do, one fourth of the entire number, and farming three-fourths of the total acreage, they eminently require the inducements of tenure and security to lay out capital in buildings,—both houses and offices,—drainage, and other permanent improvements essential to a good rotation of crops and the rearing of cattle. It is certain, also, that there has been a continuous and extensive reclamation of waste land, mainly through the patient industry of the occupiers. It may be doubted

\* See the Appendices.

whether any better way can be devised for securing to this humble but deserving class of cultivators the reward of their persevering industry, or even for rendering lands of that nature as profitable as they could be made, than that of assisting the occupiers to become owners of the farms which they or their ancestors have in fact created. Such a process of conversion, carried out gradually and with due discrimination, is not, as some allege, at variance with economic principles; while it would unquestionably conciliate the goodwill and secure the loyal support of a class which represents more than one half of the agricultural population of Ireland.\* Neither, it is considered, need any political disturbance be apprehended as the consequence of the gradual introduction of a Farmer-Proprietary on the plan here submitted. It is surely unwise to disregard the experience of other countries—both Continental and Colonial; or to countenance apprehensions which ignore the vast changes in population, laws, and education wrought within a single generation in Ireland.

If due weight be given to these changes with their results actual and still more prospective, the objections so often and strongly urged against a Farmer Proprietary in Ireland, may be estimated at their real worth and no more. The formation of such a class, on the principles above described, must be very gradual. There seems therefore to be no good reason for doubting that even small land holders, who by their industry and saving had won the position of unincumbered proprietors, might be safely left to the operation of those principles of free trade which are loudly and justly proclaimed as governing larger properties. The changes in the population and agricultural system of Ireland since the failure of the potato in 1846 have essentially altered the antecedent disposition of tenants towards subletting and subdivisions. It is well known that in many parts of Ireland the tendency during the last twenty years has been

\* See the Appendices.



to increase the size of existing farms, by the adjunction of surrounding holdings. These tendencies towards aggregation have been likewise greatly strengthened by the vast diminution in the population. It may be safely stated that there is now nothing like the same anxiety to subdivide and sublet farms as there used to be before the Irish emigration set in.

It is a wholly different question whether, pending such ultimate conversion of occupiers into owners, a transitional policy of supervision and restraint might not be desirable. Both the general interests of society and the security of advances from Public Funds seem to justify, if not require, such a temporary intervention. It demands, in fact, no new law, but might be completely provided for by requiring, as regards all properties purchased or acquired in fee farm as proposed, the consent of the Commissioners or owners of Fee Farm rents to subdivision or subletting, so long as any portion of the purchase-money or fine remained charged, or any part of the rent unredeemed.

But, apart from economic grounds, serious political exigencies enforce the necessity for measures which, exceptional though they be, if tried by a purely English standard, are, it is believed, sound in principle, and urgently called for by the antecedents and circumstances of Ireland. Her history and situation peculiarly justify a policy destined to render, without violence, injustice, or risk, the best portions of her agricultural population co-partners in the soil of which their forefathers were once the owners. Gladly would we consign to oblivion the sad recollections of religious oppression and wholesale confiscation which neglect and injustice have kept alive among the Irish people; but to effect this end there is only one way,—complete religious equality and just land-legislation. The plan submitted would, it is believed, meet the real wants of the Irish people, promote the true advantage of all classes, and help to restore peace and confidence in Great Britain and Ireland.

In conclusion, it seems advisable to refer to an opinion which has of late been industriously disseminated—the opinion that nothing short of utter revolution and separation from Great Britain will satisfy the people of Ireland, and that it is therefore useless to propose measures of peaceful reform. There is good reason for believing that this view is alike erroneous and mischievous. Between the extreme revolutionary party on the one hand, and the party of extreme conservatism upon the other, stands the great mass of the people of Ireland, among whom reigns no doubt much discontent, but a discontent having its origin in real causes, not in visionary schemes, and which it is rash and unstatesmanlike to treat as incurable till the legitimate methods of cure have been attempted. There seems to be no good reason for doubting that if, by some such ways as above suggested, the tenure and industry of the peasant be made secure, the affection and allegiance of the people will follow in the wake of their interest; and, as has become the case over the face of the continent of Europe, the rural population will be the most determined enemies of revolution. If something more be ultimately necessary for the complete satisfaction of Ireland, and if it become a question whether she should not have greater power over her own internal affairs than at present, such a result will come naturally and peacefully, with the disappearance of that disunion which artificial causes have fostered among her people, and will so come in a spirit of adhesion to the British connexion and of loyalty to the Throne.

# APPENDIX A.

## AGRICULTURAL STATISTICS OF IRELAND FOR THE YEAR 1865.

Number of Holdings Classified according to the Total extent of Land held by each Person, and the entire extent of Land under each Class of Landholders.

Classification of Holdings.	No. of Holdings in each Class	Proportion per cent of Holdings in each Class	Extent of Land held by each class of Landholders	Average extent of the holdings in each Class		
				A.	R.	P.
Holdings not exceeding 1 acre,	48,769	8.1	25,405	0	2	3
do. above 1 " 5 acres,	80,972	1.5	285,616	3	2	4
" " 5 " 15 " "	175,723	2.8	1,327,934	10	1	24
" " 15 " 30 " "	136,773	22.8	3,063,255	22	1	12
" " 30 " 50 " "	71,761	11.9	2,896,454	40	1	18
" " 50 " 100 " "	54,504	9.1	4,001,751	73	1	27
" " 100 " 200 " "	21,856	3.6	3,280,480	150	0	15
" " 200 " 500 " "	8,973	1.4	2,886,506	344	2	88
" " 500 " " "	1,554	0.3	2,062,490	1,357	0	84
Total	600,285	100.0	20,319,924	—	—	—

## Size and Number of Holdings in Ireland compared in 1841 and 1865.

Size of Holdings.	Total Number of Holdings
Above 1 to 5 acres, 1841, . . . . .	310,436
" " 1865, . . . . .	80,972
Decrease in number between 1841 and 1865, . . . . .	229,464
Rate per cent., . . . . .	73.9
Above 5 to 15 acres, 1841, . . . . .	252,799
" " 1865, . . . . .	175,723
Decrease in number between 1841 and 1865, . . . . .	77,076
Rate per cent., . . . . .	30.5
Above 15 to 30 acres, 1841, . . . . .	79,342
" " 1865, . . . . .	136,773
Increase in numbers between 1841 and 1865, . . . . .	57,431
Rate per cent., . . . . .	72.4
Above 30 acres, 1841, . . . . .	48,625
" " 1865, . . . . .	158,048
Increase in numbers between 1841 and 1865 . . . . .	109,423
Rate per cent., . . . . .	225.0
TOTAL, 1841, . . . . .	691,202
" " 1865, . . . . .	551,516
Decrease in numbers between 1841 and 1865, . . . . .	139,686
Rate per cent., . . . . .	20.2

# APPENDIX B.

RETURN showing the Number of AGRICULTURAL HOLDINGS, with the Area and (PUBLIC) VALUATION of each County in Ireland, together with the POPULATION according to the Census of 1861.

Name of Counties	Purely Agricultural Holdings, Value at										Area Acres	Valuation £	Population 1861
	£4 and under	Over £4 and under £8		£8 and under £10		£10 and under £15		£15 and under £20		Total*			
		£4 and under	£8 and under £10	£10 and under £15	£15 and under £20	£20 and under £30	£30 and under £40	£40 and under £50	£50 and over				
LEINSTER.													
Carlow, . . . . .	1253	936	328	712	474	1305	666	5664			317408	140549	40479
Dublin, . . . . .	3098	1657	441	821	535	1469	1870	8759			212883	292356	83789
Kildare, . . . . .	3658	1446	501	871	558	1548	1494	10065			410783	271637	47581
Likenny, . . . . .	2816	2769	570	1673	1327	3366	1261	15482			504981	330926	55452
King's, . . . . .	3325	2328	880	1465	855	1688	1015	11943			489042	216980	65158
Longford, . . . . .	2242	2139	910	1369	827	1201	383	3162			238907	127735	41768
Louth, . . . . .	2646	1674	622	1040	623	1170	709	8494			198466	173331	57846
Meath, . . . . .	3189	2110	886	1520	956	2144	4443	13151			576949	518666	94516
Queen's, . . . . .	4230	2229	829	1483	923	1634	961	12291			429295	216957	72933
Westmeath, . . . . .	3092	2228	754	1413	958	2025	1238	11714			450878	276574	73179
Wexford, . . . . .	4108	2830	1121	2248	1648	3678	1296	16022			671122	335164	112275
Wicklow, . . . . .	2020	1700	602	1189	796	1676	1000	8983			497313	222523	68023
Total, . . . . .	35931	24296	8769	16055	10440	22914	14356	132671			4784048	3136666	873098
MUNSTER.													
Clare, . . . . .	3622	4941	2092	3010	1649	2495	552	18065			767031	291548	138051
Cork, . . . . .	7478	5480	3438	4786	2833	3879	3905	26503			1811428	920444	375055
Kerry, . . . . .	6386	4254	1505	2545	1532	2669	560	19451			1157229	248816	771017
Limerick, . . . . .	8929	2322	1005	2096	1354	4163	2023	17067			558843	432568	145612
Tipperary, . . . . .	4860	4794	1715	3090	2350	3625	2447	25485			1016877	585964	142779
Waterford, . . . . .	2232	1741	625	954	674	2122	1200	9548			453246	250006	91421
Total, . . . . .	22638	22952	9270	16612	11572	26231	10926	126151			5915454	2789464	1106415
CONNAUGHT.													
Galway, . . . . .	17357	10885	2237	2990	1422	2411	1621	32229			1489464	429491	228630
Leitrim, . . . . .	4905	4414	1437	1718	851	664	146	14839			374464	128453	57106
Mayo, . . . . .	18412	10420	2122	2269	898	1291	694	36974			1314179	279434	227618
Sligo, . . . . .	7215	6638	1556	2558	952	1247	577	21270			588819	272988	141729
Total, . . . . .	51832	30262	15306	19665	938	1212	447	163237			447101	184919	107139
ULSTER.													
Antrim, . . . . .	3255	5267	2315	4685	3189	4366	1551	25338			706350	229517	209983
Armagh, . . . . .	5680	6328	1284	2656	2036	2977	640	23983			289685	316222	152313
Cavan, . . . . .	4889	6207	2559	2768	1906	1908	370	21847			463388	250454	138556
Down, . . . . .	17290	7752	1821	2425	1269	3600	548	33555			1167469	295067	213357
Fermanagh, . . . . .	3292	7698	2635	4980	3217	6906	1732	33945			604154	868387	230221
Londonderry, . . . . .	2525	3742	1606	2581	1569	2120	434	14317			416239	214900	97507
Monaghan, . . . . .	4653	1561	3072	1619	8475	370	1834	13629			286071	145326	58671
Tyrone, . . . . .	3900	6285	2254	3791	1754	1850	345	20349			312724	235947	112605
Total, . . . . .	55026	72672	29125	41154	4536	6295	1080	62000			1202700	1288737	806923
Total, . . . . .	174895	124685	48408	77805	45979	53259	35565	508864			20190197	10190822	4256019

Grass Total of the Area, Valuation, and Population of Ireland, 18612014013245235788967

GROSS TOTAL of the Area, Valuation, and Population of Ireland, 20815460, 13245235, 5768967

\* Two or more holdings in the occupation of the same person are enumerated separately.

† The above Return does not include the Valuation of cities, towns, or town parks, railways, canals, &c.

‡ The Population includes all cottiers and farm labourers, with their families.

RICHARD GRIFFITH,

Commissioner of Valuation.

General Valuation Office, Dublin,  
14th March, 1867.

MSH 3242

END OF  
TITLE